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10/584,417	06/23/2006	Andrew Thomas	31083.10US2	9232
34018 7590 08/19/2010 GREENBERG TRAUIG, LLP 77 WEST WACKER DRIVE SUITE 3100 CHICAGO, IL 60601-1732				
EXAMINER				
SHEIKH, ASFAND M				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/584,417

**Applicant(s)**

THOMAS, ANDREW

**Examiner**

Asfand M. Sheikh

**Art Unit**

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-41 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 23 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/22)  
Paper No(s)/Mail Date 10/17/2006  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-21 are rejected under 35 U.S.C. 101 because claim 1 in the preamble recites "a system for facilitating and controlling..." The body of claim 1 recites "a manifesting system" for the claimed limitation. Therefore claim 1 is non-statutory because a "manifesting system" can be interpreted to be directed towards software, per se, lacking storage on a medium or processing elements (e.g. processor), which enables any underlying functionality to occur. It is not clear whether instructions are in executable form and therefore there is no practical application.

Claims 22-41 are rejected under 35 U.S.C. 101. Based on Supreme Court precedent and recent Federal Circuit decisions, a 35 U.S.C § 101 process must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In re Bilski et al, 88 USPQ 2d 1385 CAFC (2008); Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the particular machine to which it is tied, for

example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps are not tied to a particular machine and do not perform a transformation. Thus, the claims are non-statutory.

The mere recitation of the machine in the preamble with an absence of a machine in the body of the claim fails to make the claim statutory under 35 USC 101.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10, 20-30 and 40-41 are rejected under 35 U.S.C. 102(e) as being anticipated by DeMaggio (US 7,292,989 B2).

#### Claim 1

DeMaggio discloses a system for facilitating and controlling route-based delivery of orders for goods from a central servicing warehouse to a network of remote ship-to sites (see at least, col. 1, lines 59-col. 2, lines 31: the examiner notes cross dock location

(e.g. central servicing warehouse/ship-to site (see col. 7, lines 65-67)) to combine a first lot (e.g. first route) and second lot (e.g. second route) of goods to be delivered to a plant from suppliers based on control from a logistics station (see col. 8, lines 23-24)), comprising:

a manifesting system for implementing a manifesting process used to manage and document the location and status of the orders for goods, associated inventory of goods in the central servicing warehouse, and the hand-off at a ship-to site of custody of an order for goods between parties involved in the process (see at least, col. 1, lines 59-col. 2, lines 50: the examiner notes logistics data and col. 7, lines 65-67).

#### Claims 2 and 22

DeMaggio discloses wherein the manifesting process identifies and compiles into a draft manifest a logical grouping of all outstanding orders to be transported to ship-to sites on a specific route and which determines and documents which orders for goods are to go out on a next delivery truck for that specific route (see at least, col. 2, lines 31-50 and col. 5, lines 46-col. 6, lines 28: the examiner notes a truck can make multiple supplier pick up's (e.g. route) based on its schedule and manifest to be delivered to the cross dock).

#### Claims 3 and 23

DeMaggio discloses wherein the manifesting process converts a draft manifest to a committed manifest, where the committed manifest becomes the official, permanent

record of the orders for goods consigned to the truck for that run on that specific route, when it is determined that the draft manifest record accurately reflects the orders for goods to be loaded on the truck (see at least, col. 10, lines 5-58: the examiner notes a transportation schedule/manifest (see col. 5, lines 46-col. 6, line 28) is confirmed (e.g. becomes official)).

#### Claims 4 and 24

DeMaggio discloses wherein the manifesting process posts the committed manifest record into an order management system of a vendor to update records to reflect that the orders for goods have left the central servicing warehouse and are on route to remote ship-to sites (see at least, see col. 5, lines 46-col. 6, line 28).

#### Claims 5 and 25

DeMaggio discloses wherein the manifesting process posts the committed manifest record into an inventory management system of a vendor to reflect that the orders for goods is now under the control of a driver of that truck (see at least, see col. 5, lines 46-col. 6, line 28)

#### Claims 6 and 26

DeMaggio discloses wherein the manifesting process communicates the committed manifest to an inventory control system at ship-to sites on the route for that truck to advise the inventory control systems of the orders for goods to expect on the next

delivery (see at least, col. 7, lines 19-34: the examiner notes the movement of lower tier to higher tier (e.g. parts expected to produce higher tier) and col. 10, lines 5-58: the examiner notes a schedule window would represent when to expect delivery).

Claims 7 and 27

DeMaggio discloses wherein the manifesting process electronically transmits sensitive supporting information concerning the committed manifest to the inventory control system at ship-to sites on the route for that truck to simplify and speed up acceptance and put-away of orders for goods; reduce time, cost and error of manual data entry; and to reduce risk of theft (see at least, col. 1, lines 23-33: the examiner notes cost and see col. 5, lines 46-col. 6, line 28: the examiner notes scanning products would reduce theft and error of manual data entry and specific routes (e.g. reduced time)).

Claims 8 and 28

DeMaggio discloses wherein the inventory control system of the ship-to sites logically checks off each order for goods, as it is tendered by the driver, against a list of orders for goods it is expecting as indicated by the committed manifest and advises whether orders for goods are either not expected or missing (see at least, col. 5, lines 46-col. 6, lines 15: the examiner notes a checklist would indicate the ability to verify)

Claims 9 and 29

DeMaggio discloses wherein the inventory control system automatically generates and sends a communication alert to a supervisor or a security monitoring system when an inventory control system detects orders for goods that are either not expected or missing (see at least, col. 6, lines 16-28: the examiner notes a late pallet (e.g. missing pallet) can be indicated as an alert to the logistics station for rescheduling a new truck pickup).

Claims 10 and 30

DeMaggio discloses wherein the inventory control system of a ship-to site transmits delivery results to the manifesting system so that inventory records of the manifesting system may be updated to reflect that the orders for goods have been received at the ship-to site and are available for pick up by a customer at that location (see at least, col. 6, lines 52-61: the examiner notes a specific dock number for pickup by a customer (see col. 7, lines 19-34: the examiner notes a high tier)).

Claims 20 and 40

DeMaggio discloses wherein the manifesting system facilitates and controls route-based delivery of orders for goods by using an order cut-off time for all the ship-to sites on a specific delivery routes whereby customers will know a time by which to place an order for goods to ensure delivery at their chosen ship-to site within a given time frame (see at least, col. 10, lines 41-48).



Claims 21 and 41

DeMaggio discloses where the draft manifest is generated automatically in response to attaining the cut-off time for that route (see at least, col. 10, lines 5-58)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-19 and 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMaggio (US 7,292,989 B2) in view of Examiner's Official Notice.

Claims 11-15 and 31-35

DeMaggio fails to disclose wherein the manifesting process requires a customer to identify themselves appropriately at a ship-to site using a previously determined PIN or ORN in order to be allowed access to an order for goods and wherein the inventory control system of the ship-to sites provides the customer with an opportunity to inspect the goods to accept or reject an order for goods and wherein the inventory control system of the ship-to sites reports back an acceptance and removal of an order for goods by the customer to the manifesting system so that order status and inventory records may be updated and wherein the manifesting system causes billing of the customer in response to receiving a notification of the acceptance and removal of an

order for goods by the customer and wherein the manifesting system causes a debiting of a customer account in response to receiving a notification of the acceptance and removal of an order for goods by the customer.

The examiner takes Official Notice that it is old and well known in the logistics arts to verify a customer identity before allowing delivery (e.g. identification via ID Card/PIN/Password) and allow a customer to inspect the delivered goods for acceptance/removal (e.g. furniture/electronics delivery inspection) and further billing//debiting the customer account based on the accepting or removing the good which can be done once an indication has been received of acceptance or removal (e.g. customer's account is credited if the customer returns the item to the deliverer and deliverer indicates return (i.e. personal delivery of sales item from previous owner to new owner)).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of DeMaggio to include the features as taught by the Examiner's Official Notice. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide stronger relationship for a customer/vendor.

Claims 16-19 and 36-39

DeMaggio fails to disclose wherein the inventory control system of a ship-to site initiates a goods return process for rejected orders, returned goods, abandoned deliveries, or empty containers by creating a to-be-returned reverse logistics order in the manifesting

system which functions to notify a vendor to expect the goods for receipt back at the central servicing warehouse and wherein the manifesting process responds to a to-be-returned logistics order by scheduling a driver to pick up the goods to be returned on a next visit to the ship-to site and wherein inventory control system at a ship-to site records a time the driver picks up the goods to be returned and notifies the manifesting system of the time and wherein receipt of the goods to be returned is confirmed by the central servicing warehouse and entered into the manifesting system.

The examiner takes Official Notice that it is old and well known in the logistics arts to have a logistics system the return process of a failed delivery by notifying parties of returned items (e.g. damage sofa is returned and warehouse is notified of damage) and further creating the necessary routes/pickup time from delivered location to hub to central location of return and entering data within the logistics system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of DeMaggio to include the features as taught by the Examiner's Official Notice. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide an automated and easy return process that sets up and notifies the given parties of a return.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Asfand M Sheikh/  
Examiner, Art Unit 3627  
8/13/2010